



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1998

Mr. William Toles
Assistant City Attorney
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-2520

Dear Mr. Toles:

You ask whether certain information is subject to required public disclosure under 552 of the Government Code. Your request was assigned ID# 119099.

The Dallas Police Department (the department) received a request for all incident reports involving four named individuals. You contend that the requested information is excepted from required public disclosure by section 552.101 of the Government Code based on a right of privacy. We have considered the exception you claim and have reviewed the documents at issue.

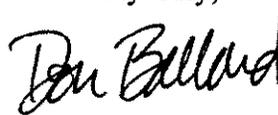
Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have previously found that to the extent a requestor asks for any unspecified records in which named individuals are identified as a "suspect," the requestor, in essence, is asking that the department compile those individuals' criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See Open Records Decision Nos. 616 (1993), 565 (1990)*. The department must withhold all compilations of the referenced individuals' criminal histories pursuant to section 552.101. We have, however, examined the responsive information that you have

submitted. The information you have submitted does not identify the named individuals as suspects. Consequently, we do not believe that a right of privacy is implicated with the release of the submitted material.

We note, nonetheless, that some of the requested information may be confidential by law. In Open Records Decision No. 649 (1996), which interpreted section 772.318 of the Health and Safety Code, we examined several confidentiality provisions in chapter 772 of the Health and Safety Code. To the extent that portions of the information here involve an emergency 911 district established in accordance with chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts, the information may be confidential under chapter 772. Sections 772.118, 772.218 and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a service supplier. *See* ORD No. 649. Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 911 telephone numbers and addresses. Section 772.401, *et seq.* Thus, if the emergency communication district here is subject to section 772.118, 772.218 or 772.318, the originating telephone number and address on the reports is excepted from public disclosure based on section 552.101 as information deemed confidential by statute. As you raise no other exception to disclosure, the remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 119099

Enclosures: Submitted documents